

**HFS 46.03 Definitions. In this chapter:**

(1) “Administrator” means the person responsible to the licensee for management of the group child care center.

(2) “Assistant child care teacher” means a child care worker who works under the supervision of a child care teacher and meets the qualifications under s. HFS 46.05(1)(e).

(3) “Care” means providing for the safety and the developmental needs of a child in a group child care center.

(3m) “Caregiver background check” means the retrieval of information about an individual’s past criminal conduct pursuant to s. 48.685, Stats., and ch. HFS 12 that may bear on the suitability of that individual to assume a child caregiving role or have regular contact with children at the center.

*See Appendix V, PFS-3064 Requirements for Caregiver Background Checks for Child Care Centers, for additional information.*

(4) “Center director” means the person responsible to the licensee for the supervision of the center’s program for children and for the supervision of the center’s staff and who meets the qualifications of s. HFS 46.05(1)(c).

(4m) “Center-provided vehicle” means a vehicle owned or leased by the center or a vehicle owned by the licensee or an employee that is used to transport children, but does not include a vehicle owned and driven by a parent or volunteer.

(5) “Child care teacher” means a child care worker who plans, implements and supervises the daily activities for a designated group of children and meets the qualifications under s. HFS 46.05(1)(d).

(6) “Child care worker” means a child care teacher or assistant child care teacher in a group child care center.

(8) “Complaint” means an allegation that a provision of this chapter or of ch. 48, Stats., has been violated.

(8m) “Course for credit” means a course that is worth at least 2 credits from an institution of higher education.

(9) “Department” means the Wisconsin department of health and family services.

(10) “Division” means the department’s division of children and family services.

(10m) “Emergency” means situations such as: fire, tornado, flood, extreme outdoor heat or cold, loss of building service including, no heat, water, electricity, or telephone, threats to the building or its occupants, lost or missing children or a circumstance such as a medical emergency, illness or other situation requiring immediate attention that may be disruptive to a child or children in the care of the center.

(11) “Field trip” means any experience a child has away from the premises of the center while under the care of center staff.

*Field trip includes walking excursions.*

**46.03(11g)**

**(11g)** “Fit and qualified” means displaying the capacity to successfully nurture and care for children and shall not include any of the following:

(a) Abuse of alcohol or drugs.

(b) A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children, as described in ch. HFS 12.

(c) Exercise of unsound judgment.

**(11r)** “Full day center” means a center that accepts children for care for 5 or more consecutive hours in a day.

**(12)** “Group” means a specific number of children who have a regularly assigned child care worker and who are cared for in the same self-contained room or area at the center.

*A group may rotate from one self-contained room or area to another. Maximum group size and staff-to-child ratios must be maintained. See also HFS 46.03(28).*

**(13)** “Group child care center” or “center” means a facility where a person for less than 24 hours a day provides care and supervision for 9 or more children who are not related to the provider.

*See Wis. Stats. 48.65.*

**(14)** “HealthCheck provider” means a provider of health assessment and evaluation services eligible to be certified under s. HFS 105.37(1)(a).

*HFS 105.37 Certification of early and periodic screening, diagnosis and treatment (EPSDT) providers. (1) EPSDT Health Assessment and Evaluation Services. (a) Eligible providers. The following providers are eligible for certification as providers of EPSDT health assessment and evaluation services:*

- 1. Physicians*
- 2. Outpatient hospital facilities*
- 3. Health maintenance organizations*
- 4. Visiting nurse associations*
- 5. Clinics operated under a physician’s supervision*
- 6. Local public health agencies*
- 7. Home health agencies*
- 8. Rural health clinics*
- 9. Indian health agencies*
- 10. Neighborhood health centers*
- 11. Doctor of osteopathy, M.D., D.P., P.A.*

*The professional identification of the person signing the form should be clearly stated on the form: i.e., M.D., R.N., P.A. etc.*

*The professional affiliation should also be stated if other than an M.D. or P.A. working under the supervision of an M.D.*

*See HFS 46.07(6)(k)3. and HFS 46.05(1)(l)1.*

**(14g)** “In care” means enrolled in the center, with the center providing supervision, either on or off the premises, for the safety and the developmental needs of the child or children.

**46.03(14r)**

**(14r)** “Inclement weather” means stormy or severe weather such as any of the following:

- (a) Heavy rain.
- (b) Temperatures above 90° F.
- (c) Wind chills of 0° F. or below for children age 2 and above.
- (d) Wind chills of 20° F. or below for children under age 2.

<i>See HFS 46.07(1)(e)4.</i>
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**(15)** “Infant” means a child under one year of age.

**(16)** “Institution of higher education” means an educational institution which meets all of the following criteria except, in the case of a business school or technical institution, par. (c):

(a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(b) Is legally authorized to provide a program of education beyond secondary education;

(c) Provides an education program for which it awards a bachelor’s degree or provides not less than a 2-year program which is acceptable for full credit toward that degree; and

(d) Is accredited by a nationally recognized accrediting agency or association or, if not accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are accredited, for credit on the same basis as if transferred from an institution that is accredited.

**(17)** “Licensee” means the corporation, individual, partnership or non-incorporated association or cooperative which has legal and financial responsibility for the operation of a child care center and for meeting the requirements of this chapter.

**(18)** “Licensing representative” means a department employee responsible for licensing group child care centers.

**(18m)** “Mildly ill” means a child who has a common, temporary illness that is non-progressive in nature and is not listed on the communicable disease chart in appendix A of ch. HFS 145.

**(19)** “Night care” means any care that is offered by a licensed group child care center between 9:00 p.m. and 5:00 a.m.

**(20)** “Parent” means either “parent” as defined in s. 48.02(13), Stats., or “guardian” as defined in s. 48.02 (8), Stats.

**(21)** “Parent cooperative” means a center organized by parents for their preschool children in which the parents have decision-making authority to establish and change policy, program and personnel practices.

**46.03(22)**

**(22)** “Parochial or private school” means an educational program which meets all the criteria specified under s. 118.165(1), Stats., or as determined by the superintendent of public instruction under s. 118.167, Stats.

*s. 118.165, Wis. Stats., Private Schools*

*(1) An institution is a private school if its education program meets all of the following criteria:*

*(a) The primary purpose of the program is to provide private or religious-based education.*

*(b) The program is privately controlled.*

*(c) The program provides at least 875 hours of instruction each school year.*

*(d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. The subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program’s religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program’s religious doctrines.*

*(e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 188.15(1)(a), Wis. Stats.*

*(f) The pupils in the institution’s educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under s. 48.60(1), Wis. Stats.*

*(2) An institution may request the state superintendent to approve the institution’s educational program as a private school. The state superintendent shall base its approval solely on the criteria under sub. (1).*

*s. 118.167, Wis. Stats., Private school determination by state superintendent. If an association that regulates or accredits private education institutions in this state submits an affidavit to the state superintendent attesting that the institution meets or exceeds all of the criteria under s. 118.165 and the state superintendent finds that the institution does meet or exceeds all of the criteria under s. 118.165 and the state superintendent finds that the institution does meet or exceeds all of the criteria under s. 118.165, the state superintendent shall determine that the institution is a private school. If at any time the state superintendent finds that an institution determined to be a private school under this section no longer meets the criteria under s. 118.165, the state superintendent may withdraw the determination.*

**(22g)** “Part day center” means a center where a defined group of children attend for a specified period of time that is less than 5 consecutive hours in length.

*For example: A group of children are enrolled for a session that operates from 9:00 a.m. to 12:00 p.m. and a different group of children are enrolled for a session that is scheduled from 12:00 p.m. to 3:00 p.m. This program is considered a part-day program because no session lasts longer than 5 hours and a different and distinct group of children are enrolled in each session.*

**(22r)** “Physical Restraint” means the use of physical force to restrict the free movement of all or part of a child’s body.

*Physical restraint does not include:*

- *Briefly holding a child in order to calm or comfort the child;*
- *Holding a child's hand or arm to escort the child from one area to another;*
- *Moving a disruptive child who is putting him/herself/others in danger and is unwilling to leave the area when other methods such as talking to the child have been unsuccessful;*
- *Intervening or breaking up a fight.*

**46.03(23)**

**(23)** “Physician” has the meaning prescribed in s. 448.01(5), Stats.

*Physician means an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the board and holding a license granted by the board. A chiropractor does not meet the definition for physician.*

**(24)** “Physician assistant” has the meaning prescribed in s. 448.01(6), Stats.

*An individual certified by “medical examination.”*

**(25)** “Premises” means the tract of land on which a center is located, including all buildings and structures on that land.

**(26)** “Regularly assigned child care worker” means a child care worker who is assigned to a specific group of children in a self-contained room or area for not less than 5 hours per day.

*“Regularly assigned child care worker” applies to assistant child care teachers and child care teachers.*

**(26m)** “Representative of the department” means a department employee or a representative from an agency the department contracts with to provide pre-licensing services.

**(27)** “School-age child” means a child 5 years of age or older who is enrolled in a public school or a parochial or other private school.

**(28)** “Self-contained room or area” means a room separated by permanent walls or an area separated by permanent or portable partitions or dividers acting as a visual barrier for children which is reserved for a group of children and contains the indoor equipment and furnishings required for that group.

*Following are some of the ways a self-contained room or area may be used.*

*1) All the equipment and furnishings (both in variety and quantity) required for a group of children are available in the room or area. NOTE: Some considerations to this expectation might apply. For example, a room or area might not contain large muscle equipment if a furnished gym were available on a regular basis to the group.*

*2) The room or area is set up with a number of interest centers and the quantity of equipment required for the group is met. Moreover, additional rooms or areas are available to the group on a daily basis to meet the variety requirement. Groups may rotate between two or more self-contained rooms or areas.*

**(29)** “Sleeping bag” means a padded fabric bag that is closed or capable of being closed on three sides.

**(29m)** “Sudden infant death syndrome” or “SIDS” means the sudden death of an infant under one year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene and a review of the clinical history.

**(30)** “Supervision of children” means guidance of the behavior and activities of children for their health, safety and well-being by child care workers who are within sight and sound of the children.

**46.03(31)**

**(31)** “Supervision of staff” means guidance of the behavior and activities of center employees which may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

**(32)** “Toddler” means a child at least one year of age but less than 2 years of age.

**(33)** “Universal precautions” means measures taken to prevent transmission of infection from contact with blood or other potentially infectious material, as recommended by the U.S. public health services centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

**Note:** “Standard precautions” for infection control measures incorporate universal precautions. Information on the OSHA requirements related to standard or universal precautions is available on the OSHA web site at <http://www.osha.gov>. Information is also available from the Child Care Information Center, 1-800-362-7353.

**(34)** “Volunteer” means a person who agrees to give time, without compensation, to transport children attending a group child care center or to work with children in a group child care center.

**(35)** “Wading pool” means a shallow pool, with sides 15 inches or less in height, capable of being dumped to change water and used primarily for small children.